

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

United States of America,

Plaintiff,

v.

Todd Richard Ladoucer,

Defendant.

**MEMORANDUM OPINION
AND ORDER**

Crim. No. 07-165(1) ADM/JSM

Erica H. MacDonald, Esq., and Kimberly A. Svendsen, Esq., Assistant United States Attorneys, Minneapolis, MN, on behalf of Plaintiff.

Todd Richard Ladoucer, *pro se*.

I. INTRODUCTION

This matter is before the undersigned United States District Judge for consideration of Defendant Todd Richard Ladoucer's ("Defendant") *Pro Se* Appeal/Objection [Docket No. 203] to Magistrate Judge Janie S. Mayeron's October 25, 2007, Order [Docket No. 183], and Defendant's Objection [Docket No. 204] to Judge Mayeron's October 25, 2007, Report and Recommendation ("R&R") [Docket No. 190]. For the reasons set forth herein, this Court overrules Defendant's *Pro Se* Appeal/Objection to the October 25, 2007, Order, and Defendant's Objection to the R&R.

II. BACKGROUND

The Second Superseding Indictment charges Defendant with Sale of a Stolen Firearm, in violation of 18 U.S.C. §§ 2, 922(j) and 924(a)(2), Sale of a Firearm to a Prohibited Person, in violation of 18 U.S.C. §§ 2, 922(d), and 924(a)(2), and Felon in Possession of a Firearm, in violation of 18 U.S.C. §§ 922(g)(1) and 924(e). The facts underlying these charges are

comprehensively set forth in Judge Mayeron's August 30, 2007, Order [Docket No. 89] and Report & Recommendation [Docket No. 91].

III. DISCUSSION

A. Defendant's *Pro Se* Appeal/Objection to the October 25, 2007, Order

"A district judge may refer to a magistrate judge for determination any matter that does not dispose of a charge or defense. . . . The district judge must consider timely objections and modify or set aside any part of the order that is contrary to law or clearly erroneous." Fed. R. Crim. P. 59(a).

In his *Pro Se* Appeal/Objection, Defendant objects to the October 25, 2007, Order to the extent it fully or partially denies: (1) Defendant's Motion to Adopt All Motions of Original Indictment to Superseding Indictment [Docket No. 97], (2) Defendant's Motion for Increased Access to Law Library and Writing Materials to Prepare Defense Facilities [Docket No. 141], (3) Defendant's Motion for Independent Expert Assistance [Docket No. 163], (4) Defendant's Motion for Discovery and Inspection - Both Prosecution and Defense Evidence [Docket No. 143], (5) Defendant's Motion for Discovery of Exculpatory, Impeaching and Mitigating Evidence [Docket No. 144], (6) Defendant's Motion for Discovery of Grand Jury Testimony, Evidence and Court Reporter Transcript [Docket No. 160], (7) Defendant's Motion for Continuing Discovery of Evidence [Docket No. 164], (8) Defendant's Motion to Compel Disclosure of Material Weapons Evidence [Docket No. 174], (9) Defendant's Motion for Rehearing of Previous Defense Motions [Docket No. 165], and (10) Defendant's Motion for Rehearing of Previous Defense Motions [Docket No. 173]. Defendant's objections to the October 25 Order are largely duplicative of the arguments addressed by Judge Mayeron. After

reviewing the October 25, 2007, Order, Defendant's *Pro Se* Appeal/Objection, and all the files, records, and proceedings herein, this Court agrees with Judge Mayeron's thorough analysis and disposition of the above-listed motions. Therefore, the objections in Defendant's *Pro Se* Appeal/Objection are overruled.

B. Defendant's Objection to Judge Mayeron's October 25, 2007, R&R

"A district judge may refer to a magistrate judge for recommendation a defendant's motion to dismiss or quash an indictment or information, a motion to suppress evidence, or any matter that may dispose of a charge or defense." Fed. R. Crim. P. 59(b)(1). The district judge must make an independent, de novo determination of those portions of the R&R to which a party objects. Fed. R. Crim. P. 59(b)(3).

Defendant objects to the October 25, 2007, R&R to the extent it recommends full or partial denial of: (1) Defendant's Motion to Dismiss Due to Ineffective Counsel [Docket No. 83], (2) Defendant's Motion to Dismiss Indictment [Docket No. 84] under Federal Rule of Criminal Procedure 12(b)(2), (3) Defendant's Motion to Dismiss Indictment Due to Investigatory Misconduct and/or Prosecutory Misconduct [Docket No. 86], (4) Defendant's Motion to Dismiss Indictment Due to Misconduct Before the Grand Jury [Docket No. 93], (5) Defendant's Motion to Dismiss Indictment [Docket No. 96], (6) Defendant's Motion to Suppress All Electronic, Video, Wire, Oral and Computer Evidence [Docket No. 149], (7) Defendant's Motion to Suppress Evidence [Docket No. 150], (8) Defendant's Motion to Dismiss Indictment [Docket No. 151], (9) Defendant's Motion to Suppress Videotape [Docket No. 168], (10) Defendant's Motion to Remove Surplus[]age from the Indictment in Additional Support of Motion to Dismiss [Docket No. 169], and (11) Defendant's Motion to Dismiss[] Indictment and All Related

Charges [Docket No. 172]. Defendant's objections to the October 25 R&R are largely duplicative of the arguments addressed by Judge Mayeron. After reviewing the October 25, 2007, R&R, Defendant's objections, and all the files, records, and proceedings herein, this Court agrees with Judge Mayeron's recommendations regarding the above-listed motions. Therefore, the October 25, 2007, R&R is adopted, Defendant's objections to the R&R are overruled, and the above-listed motions are denied. However, Defendant's Motion to Remove Surplus[]age from the Indictment in Additional Support of Motion to Dismiss is dismissed without prejudice. Defendant may renew this motion at trial.

IV. CONCLUSION

Based upon the foregoing, and all the files, records, and proceedings herein, **IT IS HEREBY ORDERED** that:

1. Defendant's *Pro Se* Appeal/Objection [Docket No. 203] to the Magistrate Judge's October 25, 2007, Order [Docket No. 183] is **OVERRULED**;
2. Defendant's Objection [Docket No. 204] to the Magistrate Judge's October 25, 2007, Report and Recommendation [Docket No. 190] is **OVERRULED**;
3. The October 25, 2007, Order is **ADOPTED** in its entirety;
4. The October 25, 2007, Report and Recommendation is **ADOPTED** in its entirety;
5. Defendant's Motion to Dismiss Due to Ineffective Counsel [Docket No. 83] is **DENIED**;
6. Defendant's Motion to Dismiss Indictment [Docket No. 84] under Federal Rule of Criminal Procedure 12(b)(2) is **DENIED**;
7. Defendant's Motion to Dismiss Indictment Due to Investigatory Misconduct and/or Prosecutory Misconduct [Docket No. 86] is **DENIED**;
8. Defendant's Motion to Dismiss Indictment Due to Misconduct Before the Grand Jury [Docket No. 93] is **DENIED**;
9. Defendant's Motion to Dismiss Indictment [Docket No. 96] is **DENIED**;
10. Defendant's Motion to Suppress All Electronic, Video, Wire, Oral and Computer Evidence [Docket No. 149] is **DENIED IN PART** and **GRANTED IN PART**, as recommended in the October 25, 2007, Report and Recommendation;
11. Defendant's Motion to Suppress Evidence [Docket No. 150] is **DENIED**;

12. Defendant's Motion to Dismiss Indictment [Docket No. 151] is **DENIED**;
13. Defendant's Motion to Suppress Videotape [Docket No. 168] is **DENIED IN PART** and **GRANTED IN PART**, as recommended in the October 25, 2007, Report and Recommendation;
14. Defendant's Motion to Remove Surplus[]age from the Indictment in Additional Support of Motion to Dismiss [Docket No. 169] is **DENIED WITHOUT PREJUDICE**;
15. Defendant's Motion to Dismiss[] Indictment and All Related Charges [Docket No. 172] is **DENIED**.

BY THE COURT:

s/Ann D. Montgomery
ANN D. MONTGOMERY
U.S. DISTRICT JUDGE

Dated: November 13, 2007.